

### **REMARKS**

Claims 1-53 are pending. By the present amendment, Claims 6, 11-13, 16-23, 27-31, and 46-53 are cancelled and Claims 1, 24, and 42 are amended, thereby leaving Claims 2-5, 7-10, 14, 15, 25, 26, 32-41, and 43-45 unchanged. Independent Claims 1 and 24, the only remaining independent claims, have been amended to clarify the claimed subject matter.

### **Interview**

Applicants' attorneys appreciate the Examiner's time and consideration during the telephone interview on November 3, 2004. During the interview, Applicants' attorney Stephen A. Gigot (Registration No. 51,232) and the Examiner discussed the rejections in the present Office action, as explained in greater detail below. The Examiner made no statement as to whether he agreed with or disagreed with Applicants' positions.

### **Rejections under 35 U.S.C. § 102**

Claims 1-2, 5, 7, 8, 14, 24, 33, 34, 38, 39, 43, and 46-53 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,104,232 ("Lennox"), Claims 46 and 49-51 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,214,518 ("Petsche"), and Claims 46 and 49-51 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,543,163 ("Groves"). As mentioned earlier, Claims 11 and 46-53 are cancelled. Reconsideration of the rejection of Claims 1-2, 5, 7, 8, 14, 24, 33, 34, 38, 39, and 43 is requested.

Claim 1 has been amended to specify that the rib extends inwardly from the interior wall generally toward the longitudinal axis at least one-quarter of the distance across the chamber along substantially the entire length of the chamber.

Lennox does not teach or suggest, among other things, a rib extending inwardly from said interior wall generally toward the longitudinal axis at least one-quarter of the distance across said chamber along substantially the entire length of the chamber. Rather, Lennox discloses a vacuum tumble mixer 10 including a drum 11 having vanes 26, which extend helically around the drum 11 and extend considerably less than one-quarter of the distance across the drum 11 along the majority of the length of the drum 11.

For these and other reasons, Lennox does not teach or suggest all the claim limitations of independent Claim 1. Accordingly, independent Claim 1 is allowable. Claims 2-5, 7-10, 14, 15, and 32 depend from independent Claim 1 and are allowable for the same and other reasons.

Claim 24 has been amended to specify that the shelf extending, along at least one-half of the length of the chamber, extends away from the interior wall and through the chamber across at least a quarter of the distance across the chamber in the direction the shelf extends away from the interior wall.

As explained above, Lennox does not teach or suggest, among other things, a shelf extending away from the interior wall and through the chamber across at least a quarter of the distance across the chamber in the direction the shelf extends away from the interior wall along at least one-half of the length of the chamber.

For these and other reasons, Lennox does not teach or suggest all the claim limitations of independent Claim 24. Accordingly, independent Claim 24 is allowable. Claims 25, 26, and 33-45 depend from independent Claim 24 and are allowable for the same and other reasons.

#### **Rejections under 35 U.S.C. § 103**

Claims 1-5, 7-9, 11, 14, 15, 24-26, 32-40, 42-45, 47, 48, and 52-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves in view of U.S. Patent No. 3,134,203 ("Roberts") and Claims 10 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groves in view of Roberts and further in view of U.S. Patent No. 2,077,088 ("Anderson"). As mentioned earlier, Claims 11 and 52-53 are cancelled. Reconsideration of the rejection of Claims 1-5, 7-10, 14, 15, 24-26, and 32-45 is requested.

The Examiner's proposed combination for Claim 1 fails to establish a *prima facie* case of obviousness. Groves does not teach or suggest a rib extending inwardly from said interior wall generally toward the longitudinal axis at least one-quarter of the distance across said chamber along substantially the entire length of the chamber. Rather, Groves discloses a vacuum tumbler 32 including a cylindrical drum 34 having ribs 36, which extend considerably less than one-quarter of the distance across the drum 34.

Roberts does not cure the deficiencies of Groves. In fact, Roberts does not have anything to do with marinating food products. Roberts discloses a rock tumbler. Roberts specifies that his invention "relates generally to tumbling apparatus for use in cleaning, abrading, burnishing, plating and analogous processes". Column 1, lines 9-11. Moreover, the rock tumbler of Roberts includes a barrel 12 having side panels 20 and end members 22, 24, which could "be made from elements perforated with holes small enough to pass liquid readily but large enough to retain both a tumbling medium such as metal shot or rings and articles to be worked upon." Column 2, lines 34-38. Before operating the Roberts rock

tumbler "a suitable quantity of a washing or cleaning liquid will be charged into the barrel 12...and...a suitable tumbling medium such as metal shot, is also charged into the barrel". Column 3, lines 59-65.

In summary, one skilled in the art of marinating food products would not be motivated by Roberts to modify the Groves vacuum tumbler with the teachings of the Roberts rock tumbler as suggested by the Examiner. As explained above, the teachings or suggestion to make the claimed combination must be found in the prior art, and must not be based on Applicants' disclosure. Accordingly, Claim 1 is allowable. Claims 2-10, 14, 15, and 32 depend from independent Claim 1 and are allowable for the same and other reasons.

The Examiner's proposed combination for Claim 24 also fails to establish a *prima facie* case of obviousness. As explained above, Groves does not teach or suggest a shelf extending away from the interior wall and through the chamber across at least a quarter of the distance across said chamber in the direction the shelf extends away from the interior wall along at least one-half of the length of the chamber. Moreover, one skilled in the art of marinating food products would not be motivated by Roberts to modify the Groves vacuum tumbler with the teachings of the Roberts rock tumbler as suggested by the Examiner.

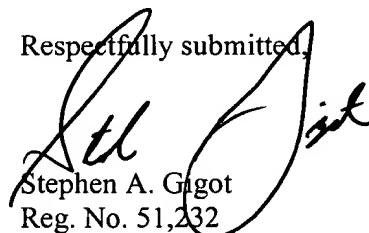
For these and other reasons, Groves and Roberts, alone or in combination, do not teach or suggest the subject matter defined by independent Claim 24. Accordingly, Claim 24 is allowable. Claims 25, 26, and 33-45 depend from independent Claim 24 and are allowable for the same and other reasons.

In addition, the additional subject matter defined by dependent Claims 2-5, 7-10, 14, 15, 25, 26, and 32-45 provide separate bases for allowance.

### CONCLUSION

In view of the foregoing, entry of the present Amendment and allowance of Claims 1-5, 7-10, 14, 15, 24-26, and 32-45 are requested. The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,



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